



No. 82-1785

IN THE  
Supreme Court of the United States

OCTOBER TERM, 1983

CITADEL CORP.,

*Petitioner.*

v.

PUERTO RICO HIGHWAY AUTHORITY  
AND PUERTO RICO LAND AUTHORITY,

*Respondents.*

On Petition For A Writ Of Certiorari From The United States  
Court Of Appeals For The First Circuit

RESPONDENT'S BRIEF IN OPPOSITION TO  
THE PETITION FOR A WRIT OF  
CERTIORARI

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—  
TO THE HONORABLE COURT:

Come now Respondents, the Puerto Rico Highway Authority and the Puerto Rico Land Authority, through their undersigned attorneys, and respectfully pray that the Writ of Certiorari requested by Petitioner in this case be denied for the reasons stated and argued in the present brief.

**JUDGMENT ORDER BELOW**

Review is requested as to the Judgment of December 22, 1982, of the United States Court of Appeals for the First Circuit. (Appendix A to the Petition of Certiorari).

**COUNTER STATEMENT OF ISSUES**

- 1) Whether the present action states a claim cognizable in a federal court.
- 2) Whether the doctrine of Collateral Estoppel barred the action filed in the District Court.

**STATEMENT OF THE CASE****Nature Of The Case**

The present case is before this Honorable Court on petition for a Writ of Certiorari from the United States Court of Appeals for the First Circuit decision issued on December 22, 1982, affirming a judgment of the United States District Court for the District of Puerto Rico granting defendant's Motion to Dismiss in the case of *Citadel Corporation v. Puerto Rico Highway Authority, Puerto Rico Land Authority and the Commonwealth of Puerto Rico*.

The complaint in this case was filed on March 19, 1979, alleging violations of petitioner's constitutional rights under the Fifth and Fourteenth Amendments to the Constitution of the United States in the deprivation of its property without just compensation and without due process of law. Jurisdiction was invoked under 28 U.S.C. Secs. 1331 and 1343, and it was alleged that the cause of action was based on Section 1 of the Civil Rights Act of 1871, 42 U.S.C., Sec. 1983.

**Counter-Statement Of Facts**

On September 23, 1976, Citadel Corporation filed a complaint in the United States District Court for the District of Puerto Rico under 42 U.S.C. Sec. 1983 against Rafael Hernandez-Colon, individually and as Governor of the Commonwealth of Puerto Rico; Rafael Alonso-Alonso, Francis Conway and Luis Negron Zayas, in-

dividually and as members of the Planning Board of the Commonwealth of Puerto Rico; Rafael Ignacio, individually and as Secretary of the Department of Transportation and Public Works of the Commonwealth of Puerto Rico; Jose G. Jaramillo, individually and as Director of the Office of Land Acquisition of the Department of Transportation and Public Works; and Carlos Rios, individually and as Secretary of Justice of the Commonwealth of Puerto Rico, Civil No. 76-1159, hereinafter called "Citadel I." In said complaint Citadel Corporation alleged that a certain parcel of land owned by it and located in Ward Sabana Llana of Rio Piedras had been partially affected since 1967 and totally affected since 1972, by the planned development for public use and future development of the Department of Transportation and Public Works of the Commonwealth of Puerto Rico of the Route 66 Expressway interchange with the Barbosa Expressway at Sabana Llana South Ward, Rio Piedras. It was further alleged that as a result of the actions of defendants "freezing" the property, its value had been destroyed and plaintiff's sole source of income was threatened, and that said actions constituted a taking of plaintiff's property without just compensation contrary to the Constitution of the United States. Accordingly, plaintiff sought that defendants be ordered to acquire the property and to pay the just value of \$50,000 per "cuerda" or the total sum of \$728,000; that defendants be ordered to pay jointly to plaintiff the sum of \$728,000 as damages; that an injunction be ordered restraining defendants and their agents or employees from enforcing or giving effect to the freeze on plaintiff's property; and that the Court adjudge and declare the acts of defendants to be in violation of the Constitution of the United States.

On January 5, 1979, plaintiff filed a "Motion for Leave to Amend Complaint." on January 8, 1979, plaintiff filed an "Amended Motion for Leave to Amend Complaint and to Add Defendants," alleging that as a result of two depositions taken and from other discovery and investigation, plaintiff had learned of additional facts and the names of additional defendants. The additional defendants that plaintiff sought to add were the Puerto Rico Highway Authority, the Puerto Rico Land Authority, three officers of the Department of Transportation and Public Works and a technician of the Puerto Rico Planning Board.

On January 8, 1979, the District Court entered an Order granting plaintiff's, "Motion for Leave to Amend Complaint," but denying plaintiff's "Amended Motion for Leave to Amend Complaint and to Add Defendants."

On January 24, 1979, defendants filed a Motion to Strike under Rule 12(f) of the Federal Rules of Civil Procedure, and on February 13, 1979, plaintiff filed a motion in opposition to defendants' motion to strike, and a cross motion to join the Puerto Rico Highway Authority, the Puerto Rico Land Authority and the Commonwealth of Puerto Rico as defendants under Rule 20(a) of the Federal Rules of Civil Procedure. On February 28, 1979, the District Court entered a Decision and Order ratifying the denial of plaintiff's motion to add defendants, denied plaintiffs cross Motion to join defendants, and granting defendants' motion to strike. The Court denied plaintiff's requests as illtimed and improper, inasmuch as they were filed more than two years after the original complaint and more than seven months after the establishment of a time table by the Court.

Notwithstanding the Court's Decision and Order of February 28, 1979, plaintiff Citadel Corporation filed a

new complaint on *March 19, 1979*, against the Puerto Rico Highway Authority, the Puerto Rico Land Authority, and the Commonwealth of Puerto Rico, Civil No. 79-733, hereinafter called "*Citadel II*." Said complaint was based on the same facts and legal doctrine as the complaint in *Citadel I*. In this second complaint plaintiff alleged that defendants had kept its property "frozen" and paralyzed since 1964 and had refused to "unfreeze" it or expropriate it, and that the cause of action has arisen from defendant's inexcusable delay in undertaking eminent domain proceedings and from official inaction. Consequently, plaintiff requested judgment against defendants as follows:

1. Ordering a preliminary and permanent injunction against defendants restraining and preventing them, their agents, servants and employees and all other persons acting in concert with them, from enforcing, administering or in any manner giving effect to the 'freeze' on plaintiff's Property which has the effect of preventing the sale, lease, use, development or other free use and/or disposition of the Property by plaintiff.
2. Judging and declaring the acts of defendants to be in violation of the Constitution of the United States of America.
3. Ordering defendants to proceed forthwith to acquire the Property and to pay plaintiff the just and reasonable value thereof of \$50,000 per cuerda or the total sum of \$728,000 with interest theron at the rate of 6% per annum compounded annually from the date of the taking of same from plaintiff until payment of judgment.
4. Ordering defendants to pay plaintiff just compensation for the loss of income from the property in the sum of \$980,000 with interest on such loss of income at the rate of 6% per annum compounded

annually from the respective date of damage until the payment of judgment.

5. Ordering defendants to pay plaintiff just compensation for carrying expenses and costs paid by plaintiff while plaintiff has held record title to the property from the date of wrongful taking of the property by said defendants until acquisition of formal and legal fee simple title by said defendants with interest thereon at the rate of 6% per annum compounded annually from the date of each such cost and expense until payment of judgment.

6. Granting to plaintiff its litigation expenses and disbursements including reasonable attorneys fees incurred in this action and by reason of said damages and said taking; and

7. For such other just compensation, damages and relief as to this court seems just and proper."

The complaint in *Citadel II* was answered by defendants on July 9, 1979.

Meanwhile, *Citadel I* was tried in the District Court on December 5, 1979, and final judgment was rendered on February 22, 1980, which was filed and entered on February 26, 1980. By said judgment, the Court permanently restrained defendants therein and their successors in office from enforcing or in any manner giving effect to any "freeze" or restriction on petitioner's property which had the effect of preventing its sale, lease, use or development, and enjoined respondents from reserving said property for construction of the planned interchange between Route 66 Expressway and the Barbosa Expressway. The Court directed defendants to revise the location of the planned interchange so as to eliminate petitioner's property therefrom, and declared the acts of respondents to be in violation of petitioner's constitutional rights: Respondents were ordered to pay litigation expenses and the sum of \$35,000.00 for attorney's fees.

Although the District Court found that the actions of respondents therein had caused and would continue to cause petitioners severe and irreparable loss and damage and had destroyed its sole source of income and its life-line, it did not award damages.

Neither party appealed the final judgment rendered in *Citadel I*. Accordingly, pursuant to the District Court's judgment of February 22, 1980, the Puerto Rico Planning Board adopted in its meeting of May 15, 1980 a resolution liberating the property from the restrictions which affected it.

On June 2, 1980, defendants in the case of *Citadel II* filed a motion to dismiss the complaint on the grounds that the action was barred by the doctrine of collateral estoppel an by the Eleventh Amendment to the Constitution of the United States. On July 21, 1980, plaintiff filed a motion in opposition to defendants' motion to dismiss and a cross-motion for partial summary judgment and for leave to file a First Amended Complaint so as to eliminate the Commonwealth of Puerto Rico as a named defendant, and "to conform its pleadings to the recent decisions" of *Owen v. City of Independence*, 445 U.S. 622 (1980) and *Pamel Corporation v. Puerto Rico Highway Authority*, 621 F.2d 33 (1st Cir. 1980) and to "the change of factual circumstances whereby plaintiff's property was unfrozen by defendants" in *Citadel I*. Defendants' motion to dismiss was granted by the District Court and the action was consequently dismissed. By its Memorandum Opinion and Order of March 23, 1982, the Court decided that the doctrine of collateral estoppel bars relitigation in *Citadel II* of plaintiff's claims that were adjudicated and laid to rest in *Citadel I*.

The Court of Appeals for the First Circuit affirmed the judgment of the district court dismissing the complaint,

on the grounds of the absence of a claim cognizable in a federal court.

## REASONS FOR DENYING THE WRIT

### I

The regulation of private property by the State in our modern life constitutes a basic and fundamental prerogative of police power.

Most of the regulations cannot, and as a matter of law, are not considered "takings" within the constitutional context of the action. Reasonable regulations that prevent an owner from using his land in such a way that it causes injury to others or deprives them of the reasonable use of their land have been held as not to require compensation by the state. *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1977).

Furthermore, there can be no test to determine when a regulation goes too far and becomes a taking. Each case must be determined under its own circumstances. The purpose of the regulation has been held as an element to be considered. *Burrows v. City of Keene*, 432 A. 2d 15 (1981) *Pruneyard Shopping Center v. Robbins*, 447 U.S. 74 (1980).

This Honorable Court has consistently decided on this matter in a restrictive way, against continuous allegations of "takings" from property owners. *Penn Central Transportation*, supra, at 133; *Miller v. Schoene*, 276 U.S. 272 (1928); *Haddacheck v. Sebastian*, 239 U.S. 394 (1915).

A property owner must establish that the right lost was so essential to the use of economic value of the property that a state-authorized limitation of it amounted to a taking. *Pruneyard Shopping Center*, supra. A decline in

market value, or the loss of the best or most profitable use of the property, does not conclusively demonstrate that a taking has occurred. *Goldblatt v. Hempstead*, 369 U.S. 590 (1962); *Andrus v. Allard*, 444 U.S. 51 (1979); *U.S. v. Central Eureka Mining Co.*, 357 U.S. 155 (1957). Rather than merely prevent the most beneficial use, governmental action must deny an individual "all" or "essential" use of his property before a confiscation occurs. *U.S. v. Causby*, 328 U.S. at 262 (1945); *Curtin v. Benson*, 222 U.S. 78 (1911).

It has been held that government action which interferes with the value of land only by making it less desirable for its present uses does not effect a taking, notwithstanding that prospective future business opportunities may have been destroyed. *Ortega Cabrera v. Municipality of Bayamon*, 562 F.2d. 91 (1st Cir. 1977).

Furthermore, loss of a potential profit is not a confiscation, *Hempstead General Hospital v. Whalen*, 622 F.2d. 573 (1979).

Even where there have been consequential damages resulting from exercise of lawful regulations, it has been held that the damages are not compensable takings within the scope of the Fifth Amendment. *Carruth v. U.S.*, 627 F.2d. 1068 (1980).

The Constitutional test for compensation is also extremely restrictive towards the claiming party. In order to be entitled to compensation, the property owner must establish that his right to property loss was so essential to use or economic value of property, that the state-authorized limitation of it amounted to a decline in market value or loss of best or most profitable use of the property involved. *Pruneyard Shopping Center*, *supra*; see also *Goldblatt v. Hempstead*, *supra*; *Andrus v. Allard*, *supra* and *Barbian v. Panagis*, 694 F.2d 476 (7th Cir. 1982).

Landowners simply cannot premise a taking merely upon loss of the best use of their property. *Oceanic California Inc., v. City of San Jose*, 497 F. Supp. 962. (U.S.D.C., N.D. California, 1980).

It is within the scope and context of these doctrines that the present controversy has to be reviewed. The Court of Appeals for the First Circuit held that the action be dismissed, but not on the ground of collateral estoppel (as the district court did) but on the ground of failure to state a claim cognizable in a federal court.

The decision was based on *Pamel Corp. v. Puerto Rico Highway Authority*, *supra*. Plaintiff in *Pamel*, like petitioner in the case at bar, sought damages equivalent to the value of property allegedly taken as a result of the restrictive zoning policies of the Puerto Rico Highway Authority.

In *Pamel*, *supra*, the Puerto Rico Highway Authority allegedly unconstitutionally deprived plaintiff of the entire value of two parcels of land by reclassifying them as "P," or for public use. Plaintiff sought damages under 42 U.S.C., sec. 1983 for the alleged uncompensated taking. The defendant answered the complaint by requesting a clarification of the same as to the location of the tracts, filing an answer and then a motion to dismiss for failure to state a claim upon which relief could be granted. The district court granted defendant's motion to dismiss because of lack of jurisdiction, reasoning that plaintiff's claim amounted to an action for inverse condemnation. The Court concluded that only the Commonwealth of Puerto Rico could condemn property pursuant to the power of eminent domain, that compensation for condemned property required expenditures from Commonwealth funds and that such a suit in the federal courts was barred by the Eleventh Amendment.

Plaintiff appealed the district court's dismissal, arguing that it had erred in concluding that the Commonwealth, rather than the Highway Authority, would pay the alleged damages as a matter of law.

Plaintiffs' theory was that the mere fact of classification of the property as "Public Use" deprived it of all value and constituted a "taking" of property rights by the Authority. Thus, plaintiff sought an award by the Federal Court of the value of the property.

The Court of Appeals (Coffin, Chief Judge) held that the complaint failed to state a claim upon which relief could be granted since there was no allegation that the Highway Authority had the authority to zone the property in question and that the only overt act alleged to have been committed by the Highway Authority was its decisions to widen a highway contiguous to the land in controversy.

The similarity between *Pamel*, *supra*, and the present case is evident.<sup>1</sup> Petitioner seeks damages for an action taken by the government that he claims has extinguished his property rights. The remedy sought is essentially the award by the federal court of the value of the property.

The regulations of property use may also be so oppressive or arbitrary so as to cross the bordering line separating a valid exercise of the police power from an exercise of the eminent domain power, which in turn would be invalid without payment of the just compensation mandated by the due process clauses of the Fifth and Fourteenth

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<sup>1</sup> "The governmental freeze on appellant's property is sufficiently similar to the restrictive zoning in *Pamel* to bring this case within our holding in *Pamel*." Cited from *Citadel Corp. v. Puerto Rico Highway Authority*, argued on October 4th and decided on December 22, 1982, Court of Appeals for the First Circuit, *Per Curiam* Opinion.

Amendment. *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922); *Nectow v. City of Cambridge*, 277 U.S. 183 (1927). Even then, the remedy awarded has not been the value of the diminished property right, but a declaration of the invalidity of the purported exercise of the police power. *Agins v. City of Tiburon*, 598 P.2d. 25 (1979).

Furthermore, it has been held that a zoning regulation that exceeds the permissible bounds of the police power does not in reality confiscate the property, but "regulates with oppressive or arbitrary severity. Absent factors of government displacement of private ownership, occupation or management, there is no taking within the meaning of the constitutional limitations" *Fred F. French Inv. Co., Inc. v. City of New York*, 39 N.Y. 2d. 987 (1976). A Court does not declare that an offensive zoning regulation has taken the property, but that the government cannot impose the restriction without formally paying for it. (See *Pamel Corp.*, *supra*). In said case, the Hon. Court of Appeals concluded that the district court's conclusion that plaintiff could recover the lost value of his property as damages was erroneous. The court especially upheld that a plaintiff cannot recover damages by means of the inverse condemnation remedy.

The case at bar, as we have stated, is no different from *Pamel*, nor from any at the other federal cases cited.

Petitioner alleged that its real property located at Sabana Llana Ward of Rio Piedras, P.R., with an area of eleven cuerdas and twenty-five hundredths of a cuerda (11.25), has been affected since 1965 by the planned development for public use of the interchange between Route 66 Expressway and the Barbosa Expressway at Sabana Llana South Ward, Rio Piedras, pursuant to a "Plan for Transportation and Use of Land for the Metropolitan

Area for 1985" approved by the Planning Board of Puerto Rico and by the governor of the Commonwealth. That the purpose of the "freeze" of petitioner's property was to enable defendants to reserve it for acquisition at as low a cost as possible as the site for the construction of said interchange and to prohibit any other use of the property in the meantime. Petitioner further alleged that as a result of the freeze of the property, respondents without just compensation deprived it of its property without due process of law in that since 1964, the property had been kept paralyzed and that respondents refused to unfreeze or to expropriate it, with the consequences of causing the value of the parcel of land to be destroyed, making it useless and worthless.

Historically, similar allegations have been dismissed by federal courts. As we have seen, this Honorable Court has consistently decided these cases in a restrictive way against plaintiffs. *Penn Central Transportation v. New York City*, *supra*. Further-more, a decline in market value, or the loss of the best or most profitable use of the property, does not conclusively demonstrate that a taking has occurred. *Andrus v. Allard*, *supra*. Loss of potential profit, as we have also seen, does not constitute a confiscation. *Hempstead General Hospital v. Whalen*, *supra*. And even if there have been consequential damages resulting from exercise of lawful regulations, case law has established that the damages are not compensable takings within the scope of the Fifth Amendment. *Carruth v. U.S.*, *supra*.

For all these reasons, the Honorable Court of Appeals for the First Circuit dismissed petitioner's appeal from the United States District Court decision. We respectfully sustain that the Court of Appeals did not err in dismissing said appeal.

## II

The Honorable U. S. Court of Appeals for the First Circuit decided that this action be dismissed, but on other grounds rather than on the ground of collateral estoppel, when the District Court had held that Citadel I precluded appellant from relitigating the same issue in Citadel II. The First Circuit held that although the factual issues were identical, defendants different identities in the two actions made reliance on collateral estoppel inappropriate.

As case law has established, collateral estoppel has the dual purpose of protecting litigants from the burden of relitigating an identical issue with the same party or his privy and of promoting judicial economy by preventing needless litigation. *Parklane Hosiery Co. v. Shore*, 439 U.S. 322 (1979). It precludes parties from contesting matters that they had a full and fair opportunity to litigate, protects their adversaries from the expense and vexation attending multiple lawsuits, conserves judicial resources, and fosters reliance on judicial action by minimizing the possibility of inconsistent decisions. *Montana v. United States*, 440 U.S. 147, 153-154 (1979). Under collateral estoppel, once a court has decided an issue of fact or law necessary to its judgment, that decision is conclusive in subsequent suits based on a different cause of action involving a party to the prior litigation. *Allen v. McCurry*, 449 U.S. 90, 94 (1980); *Montana v. United States*, *supra*, at 153.

The doctrine of collateral estoppel precludes relitigation of issues actually litigated and determined in a prior suit, regardless of whether the judgment was based on the same cause of action as the second suit. *P I Enterprises, Inc. v. Cataldo*, 457 F.2d 1012 (1st. Cir., 1972). The application of collateral estoppel in federal courts is

no longer grounded upon the mechanical requirements of mutuality. Rather, the significant question is whether a party has had a "full and fair" opportunity for judicial resolution of the same issue. *P I Enterprises, Inc. v. Cataldo*, *supra*; *Cardillo v. Zyla*, 486 F.2d 473 (1st Cir., 1973); *Bricker v. Crane*, 468 F.2d 1228 (1st. Cir. 1972). The Court of Appeals viewed the cases as identical in issues, but stated that "defendants different identities in the two actions make reliance on collateral estoppel inappropriate."

In Citadel I, the defendants were Rafael Hernandez-Colon, individually and as Governor of the Commonwealth of Puerto Rico; Rafael Alonso-Alonso, Francis Conway and Luis Negron Zayas, individually and as members of the Planning Board of the Commonwealth; Rafael Ignacio, individually and as Secretary of the Department of Transportation and Public Works of the Commonwealth; Jose G. Jaramillo, individually and as Director of the Office of Land Acquisition of the Department of Transportation and Public Works; and Carlos Rios, individually and as Secretary of Justice of the Commonwealth.

It is evident that petitioner joined as defendants in its original complaint all the persons which had something to do with the restriction imposed on its property, among them the members of the Planning Board of Puerto Rico, the Secretary of the Department of Transportation and Public Works and the Governor of Puerto Rico. The fact that the District Court did not permit petitioner to join as defendants the Highway Authority and the Land Authority did not deprive them of full and fair opportunity in Citadel I to press its claim against the persons which imposed the restriction on its property. As a matter of fact, petitioner prevailed in its challenge to the restriction

and, consequently, injunctive relief was granted in its favor ordering the "unfreezing" of the property as requested. Petitioner chose not to appeal the final judgment as to the denial of new defendants nor as to the failure of the Court to award damages, nor did it seek reconsideration, nor a permissive interlocutory appeal under 28 U.S.C., Sec. 1292 (6), as to the order denying the joinder of new defendants.

It was petitioner's prerrogative to litigate the issue of governmental entities liability for an alleged unconstitutional action. If this option was not exercised, it was something that respondents could not control, and therefore, a factor that cannot be taken against them.

The Court of Appeals also based its refusal to apply the collateral estoppel claim on 'defendants' different identities in the two actions."<sup>2</sup> In *Citadel II*, defendants were the Puerto Rico Highway Authority and the Puerto Rico Land Authority.

As we have stated, on February 13, 1979 petitioner filed a motion to join the Puerto Rico Highway Authority, the Puerto Rico Land Authority and the Commonwealth as defendants. Said Motion was denied, on the basis that it was illtimed and improper, inasmuch as it was filed more than two years after the original complaint and more than seven months after the establishment of a time table by the Court.

Case law has established that identity of parties is not a mere matter of form, but of substance. Parties nominally

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<sup>2</sup> The Court of Appeals also cites the Supreme Court decision in *San Diego Gas & Electric Co. v. City of San Diego*, 430 U.S. 621 (1981). The case at bar was originated in a federal court, and the lower court in San Diego Gas was a state court. The damages issue clearly does not apply in the present action.

the same may be, in legal effect, different, and parties nominally different may be, in legal effect, the same. *Chicago, R.I. & P. R. Co. v. Schendel*, 270 U.S. 611 (1925). It has been held that "there is privity between officers of the same government so that a judgment in a suit between a party and a representative of the United States is res judicata in relitigation of the same issue between that party and another officer of the government." *Tait v. Western Maryland R. Co.*, 289 U.S. 620 (1932).

In the case at bar, petitioner brought as defendants the Highway Authority and the Puerto Rico Land Authority.

The powers and duties of the Highway Authority are discharged by the Secretary of Transportation and Public Works according to the reorganization plan number 6 of 1971. (3 L.P.R.A., App. III, page 502). The Secretary of Transportation and Public Works was joined as a defendant in *Citadel I*.

Furthermore, the Land Authority of Puerto Rico was created for the purposes of carrying out the agricultural policy of the Commonwealth of Puerto Rico. As such, it has nothing to do with the planning and construction of highways nor with the imposition of zoning restrictions on the land in the Commonwealth of Puerto Rico (28 L.P.R.A., Secs. 247 *et seq.*). Therefore, we respectfully sustain that the Court of Appeals erred in finding different identities in the two actions on the part of defendants, which in turn made reliance on collateral estoppel inappropriate. Having the same identity, we need not discuss any further the Court of Appeals determination that "appellees have not demonstrated that the issue of defendants liability in *Citadel II* is the same as that in *Citadel I*." Being the same defendants, the liability issue in the first case is the same one as in *Citadel II*.

**CONCLUSION**

For all the reasons stated above, we respectfully sustain that petitioner's Writ of Certiorari should be denied.

Respectfully submitted.

San Juan, Puerto Rico, this 22nd day of July, 1983.

MIGUEL PAGAN

*Acting Solicitor General*

GERARDO MARIANI

*Assistant Solicitor General*

**CERTIFICATE OF SERVICE**

I hereby certify that on this same date three printed copies of the foregoing Opposition to the Petition for a Writ of Certiorari have been served by certified mail to Robert H. Rout, Esq., Counsel for Petitioner, at his address in Lakeville, Conn. 06039.

San Juan, Puerto Rico, this 22nd day of July, 1983.

GERARDO MARIANI  
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